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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,831	07/13/2001	Bernhard Budnik	04851/257561	3550

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KILPATRICK STOCKTON LLP  
1001 WEST FOURTH STREET  
WINSTON-SALEM, NC 27101

EXAMINER

TRINH, TAN H

ART UNIT PAPER NUMBER

2684

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/830,831

Applicant(s)

BUDNIK, BERNHARD

Examiner

TAN TRINH

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 16 is/are rejected.
- 7) ☒ Claim(s) 4-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. Claims 4-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Reasons for allowance***

2. The following is an examiner's statement of reasons for allowance:

Claims 5-9 are allowed with the same reasons set forth in the previous Office action (mailed on 6-28-2004).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3 and 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ziv (U.S. Patent No. 6,292,662) in view of Chung (U.S. Patent No. 5,706,282).

Regarding claims 1 and 16, Ziv teaches procedure to improve the audio quality in a mobile radio network (see fig. 1, col. 2, lines 45-58), with which a tone control that is switched into one of the communication connection's corresponding audio paths (see figs. 1-2, col. 2, lines 45-67, and col. 4, lines 34-64), that, dependent upon the types of end device(s) or equipment

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being used in the connection (see col. 4, lines 27-30). But Ziv fails to teach influences the audio quality in the audio path in that a frequency response of a sound in the audio path is changed.

However, Chung teaches influences the audio quality in the audio path in that a frequency response of a sound in the audio path is changed (see col. 2, line 13-col. 3, line 25, and col. 3, lines 50-62, col. 4, lines 43-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Ziv system and by the provide of the teaching of Chung on the maintained the bandwidth and power level when the audio path is changed so that the quality of audio signal of the system can be improve (see col. 3, lines 54-57 and col. 4, lines 47-50).

Regarding claim 2, Ziv teaches influences the audio quality that is different in the connection direction from the caller to the called user and from the called user to the calling user (see col. 2, lines 48-64 and col. 5, lines 3-27).

Regarding claim 3, Ziv teaches the base station control, as well as the mobile switching center, that determines the end device type (s) by query of the mobile equipment identification and assigns to the appropriate end device type corresponding pre-determined parameters, which serve to adjust the tone control (see fig. 2, col. 4, lines 27-67).

### ***Response to Arguments***

5. Applicant's arguments filed on 9-16-2005 have been fully considered but they are not persuasive.

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Regarding claims 1 and 16, Applicant argues that the reference of Ziv fails to teaches a tone control switched into the audio path that influences the audio quality dependent on the types of end devices by changing a frequency response of a sound in audio path. However, Examiner is agreed with the applicant for the Ziv reference. But Examiner does not agree since the Ziv reference teaches a tone control switched into the audio path that influences the audio quality dependent on the types of end devices (see figs. 1-2, col. 2, lines 45-67, and col. 4, lines 34-64 and col. 4, lines 27-30). And the reference of Chung teaches influences the audio quality in the audio path in that a frequency response of a sound in the audio path is changed (see col. 2, line 13-col. 3, line 25, and col. 3, lines 50-62, col. 4, lines 43-67). Therefore, the combination of the reference of Ziv and Chung are teaching the limitation of the claim.

### *Conclusion*

**6. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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7. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

**(571) 273-8300, (for Technology Center 2600 only)**

*Hand-delivered responses should be brought to the Customer Service Window (now located at the **Randolph Building, 401 Dulany Street, Alexandria, VA 22314**)*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Trinh whose telephone number is (571) 272-7888. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiners supervisor, Nay Maung, can be reached at (571) 272-7882.

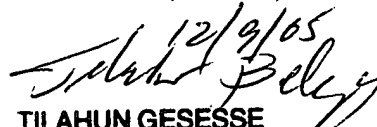
The fax phone number for the organization where this application or proceeding is assigned is **(571) 273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Technology Center 2600 Customer Service Office** whose telephone number is **(703) 306-0377**.

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8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tan H. Trinh  
Art Unit 2684  
Dec. 06, 2005

12/9/05  
  
TILAHUN GESESSE  
PRIMARY EXAMINER